

Application No. 10/795,901
Filed: March 8, 2004
TC Art Unit: 2617
Confirmation No.: 1538

REMARKS

Claims 1-46 are pending in the present application and stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 5,794,140 to Sawyer in view of U.S. Pat. No. 5,440,621 to Castro. The following claims are amended: 1, 6, 10, 14, 18, 24, 28, 32, 34, 36, 37, 39, 42, 43, 45, and 46. Claim 35 is canceled. The Applicant respectfully traverses the rejections.

Claim 1

The Examiner asserts in the Official Action that Sawyer may be relied upon for a teaching of the step of computing a rate schedule based upon a rate plan. In support of this assertion, the Examiner highlights several excerpts from the disclosure of Sawyer.

At col. 10, lines 45-50, Sawyer describes the issuance or broadcast of an offering message which is received by a mobile station (e.g., a wireless telephone). A determination is then made within the mobile station whether the respective subscriber has elected to take advantage of the reduced calling rate associated with the offering message.

Application No. 10/795,901
Filed: March 8, 2004
TC Art Unit: 2617
Confirmation No.: 1538

While not cited by the Examiner, the detailed description continues at col. 10, line 53 to describe two possible response modes if the respective subscriber has elected to take advantage of the rate associated with the offering message. The mobile station may be programmed to audibly or visually alert the subscriber that the offering message has been received, or the mobile station may be programmed to automatically initiate a cellular telephone call in response to receipt of the offering message.

At col. 11, lines 7-23, steps are described in which an incoming call is tested at a mobile switching center for an indication of whether the incoming call has been initiated in response to the offering message. If so, the call is processed at a reduced rate. If not the call is processed at the prevailing contract rate.

At col. 2, lines 18-21, Sawyer indicates that the mobile station may be programmed to respond to a broadcast offering message by automatically initiating a preprogrammed telephone call and alerting the subscriber to the initiation of the call.

None of the foregoing excerpts from Sawyer pertain to the computation of a rate schedule based upon a rate plan, as now claimed. Instead, Sawyer describes a system that processes a

Application No. 10/795,901
Filed: March 8, 2004
TC Art Unit: 2617
Confirmation No.: 1538

subscriber call at either a normally scheduled rate or, through identification of an indication in the call setup data, a discounted rate.

The Examiner indicates that Sawyer fails to disclose the identification of an account balance associated with a request or the determination of a duration of the communications event by comparing a rate schedule to the account balance.

For these teachings, the Examiner refers to Castro. At col. 8, lines 7-28, Castro describes the adjustment of an amount of pre-purchased telecommunications time associated with a user account. Claim 1 has been amended to explicitly refer to a monetary account balance. Castro, in contrast, discloses pre-purchased telecommunications time. Even if Sawyer disclosed the computation of a rate schedule as is claimed in claim 1, which it does not as discussed in the foregoing, Castro would not be able to operate according to a rate schedule since it involves the delivery of telecommunications service according to pre-purchased time credit, not monetary credit that can be utilized at different rates according to a computed rate schedule.

Claim 18

Application No. 10/795,901
Filed: March 8, 2004
TC Art Unit: 2617
Confirmation No.: 1538

With regard to independent system claim 18, the Examiner cites the same excerpts from Sawyer as discussed above. For the same reasons, it is respectfully submitted that Sawyer fails to disclose at least one processor for computing a rate schedule. The system of Sawyer analyzes a call setup request to determine if the call is in response to an offering message. If it is, the preferential communications rate is applied. If it is not, the applicable contract rate is applied. No rate schedule is thus computed, as required by claim 18.

As with claim 1, the Examiner relies upon Castro for a teaching of a database of account information and the comparison of a rate schedule to the account balance to determine a duration of a communications event for which the accrued cost is approximately equal to the respective monetary account balance.

Sawyer fails to disclose the computation of a rate schedule. Castro fails to disclose the establishment of a monetary account balance, rather disclosing the establishment of an account balance comprised of pre-purchased telecommunications time (e.g., twenty-five minutes). Thus, Sawyer and Castro, alone or in combination, cannot teach or suggest the comparison of a computed rate schedule to a monetary account balance in order to determine the allowable

Application No. 10/795,901
Filed: March 8, 2004
TC Art Unit: 2617
Confirmation No.: 1538

duration of a communications event for which the accrued cost is equal to a monetary account balance.

Claims 32 and 46

The Examiner rejects independent method claim 32 and independent computer-readable medium claim 46 on the same basis as the rejection of claim 1. For the same reasons, it is respectfully submitted that the prior art of Sawyer and Castro, alone or in combination, fails to disclose or teach the computation of a rate schedule and the determination of a duration for a communication event on the basis of a monetary account balance and the computed rate schedule.

Dependent claims

All remaining dependent claims are believed to be allowable as being dependent from allowable independent claims.

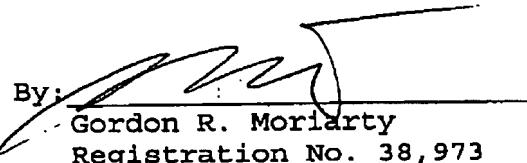
In view of the foregoing amendments and remarks, the Examiner is respectfully requested to reconsider the rejections and allow the claims. If a telephone call would be use in forwarding the present application towards allowance, the Examiner is invited to

Application No. 10/795,901
Filed: March 8, 2004
TC Art Unit: 2617
Confirmation No.: 1538

contact Applicant's representative at the telephone number listed below.

Respectfully submitted,

PAUL SENN et al.

By: 

Gordon R. Moriarty
Registration No. 38,973
Attorney for Applicant(s)

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
Ten Post Office Square
Boston, MA 02109
Telephone: (617) 542-2290
Telecopier: (617) 451-0313

GRM/pjd/353103

-17-

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
TEL. (617) 542-2290
FAX. (617) 451-0313